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EXAMINER	
FLEISCHER, MARK A	

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3624	

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/822,272

**Applicant(s)**

D'ELENA ET AL.

**Examiner**

MARK A. FLEISCHER

**Art Unit**

3624

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 5, 6, 8, 12-14, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 5, 6, 8, 12-14, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### Status of Claims

1. This non-final rejection is in reply to the Request for Continuing Examination and amendments filed on 2 December 2008.
2. Claims 1, 8 and 14 have been amended.
3. Claims 7 and 20 have been canceled.
4. Claims 1, 5, 6, 8, 12-14, 18 and 19 are currently pending and have been examined.

### *Continued Examination Under 37 CFR 1.114*

5. A request for continued examination under 37 CFR §1.114, including the fee set forth in 37 CFR §1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR §1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR §1.114. Applicant's submission filed on 2 December 2008 has been entered.

### *Response to Amendment*

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.
7. The rejection of claims 1, 8 and 14 under 35 U.S.C. §112, 2<sup>nd</sup> paragraph are withdrawn in light of Applicant's amendments to these claims.
8. The amendments to claims 1, 8 and 14 recite the limitation "*computing an overall ranking based upon the **computed core skill ranking and the computed dimension skill ranking** wherein the overall ranking is stored in the memory...*" where the boldface text is new text that was not properly indicated as an insertion in the amendments. Notwithstanding this flaw in the amendments, Examiner will examine these amended claims on their merits, but Applicant is nevertheless required to cure this defect in the amendments.

***Response to Arguments***

9. Applicant's arguments filed 2 December 2008 have been considered but they are not persuasive.

Applicant essentially bases the significance of his arguments on what Applicants see as the inappropriate statements and conclusions regarding non-functional descriptive material wherein the Examiner pointed out that the various 'labels' for categories of skills *i.e.*, core skills and dimension skills were "merely non-functional descriptive material and are thus not given patentable weight." (see the Final Rejection of 2 September 2008, p.5). Applicant however ignores the rest of the arguments that support the notion of non-functional material and also ignores the significance of the related arguments wherein Examiner stated that

"Even assuming that these terms are to be given patentable weight, the prior art accounts for these classifications of skills and even provides the same dichotomy: "skills and competencies" (Mui [0972]) and "User profiles may include skill competencies and gaps, roles and responsibilities, interests and career goals..." See (Mui [0963]) where 'roles and responsibilities' encompass the 'core competencies' referred to by the Applicant while the 'skills competencies' encompass professional skills."

(see the Final Rejection of 2 September 2008, p.5). By virtue of their arguments, Applicant's essentially seek to patent an invention wherein the skills and competencies used to evaluate an employee, while fully encompassed by the prior art, are grouped (labeled) into two main groupings before they are weighted as opposed to weighting them without such grouping. Again, the prior art of record teaches use of the various skills and competencies and in terms of grouping such skills, but without the specific dichotomy chosen by Applicant's to clarify the types of skills (*e.g.*, Executive leadership, communication, teamwork, etc. versus the 'dimension skills' such as industry specific skills as shown in the previous final rejection). Applicant states that "One of the shortcomings of the prior art is that the prior art does not teach or suggest differentiating between "core skills" and "dimension skills" and further does not teach or suggest evaluating a user (*e.g.*, employee) by calculating a rank for both types of skills and then combining the rankings into an overall ranking." While Examiner appreciates the clarifying amendments to clearly delineate the distinctions between Applicant's "core skills" and "dimension skills", the same issue obtains that

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these skills, the general skills and profession-specific skill (e.g., teamwork as a general skill, and Java programming as a profession-specific skill) are taught by the prior art in the evaluation of employees. Moreover, as shown in the Official Notices and supporting passages in the prior art relied on and not relied on, the dichotomy of competencies is either specifically taught in the art or are an obvious variation of what is taught in the art. The very notion that such delineations are described, even when they do not precisely align with those of the instant application, is sufficient to establish *prima facie obviousness* in view of the fact that to one of ordinary skill in the art, the particular delineations would have been obvious to try in developing a human capital management system.

In the end, Applicant has not addressed the underlying rationale for Examiner's rejection as stated in the Final rejection of 2 September 2008 wherein Examiner stated:

"Finally, Applicant argues that the prior art "does not teach or suggest differentiating between "core skills" and "dimension skills" and further does not teach or suggest evaluating a user (e.g., employee) by calculating a rank for both types of skills and then combining the rankings into an overall ranking." But the specific delineation of classes of skills or the lack thereof leads to the same results—an assessment of a user based on a variety of skills and progression. Indeed, much of the prior art concerns rating individuals in a wide variety of categories. Depending on the associated weights assigned, some categories will not affect an overall rating while other categories will. Afterall, virtually all employees have some skill levels in a wide variety of categories even if the particular domain is outside their area of expertise. For example, most managers have some typing skills, janitors similarly have decision making skills, etc. Thus, the entire spectrum of skills and competencies can be applied, scored, weighted and assessed among all individuals in an enterprise. In other words, the claimed utility of Applicant's invention is to highlight those skill areas where a company can obtain the greatest return on investment in developing reasonable progression requirements for a given individual and "dynamically measure a workforce's capabilities and develop the skills of the workforce to respond to changing market needs." (Specification page 2, line 28).

Although one of the claimed benefits of the invention is the delineation of the progression requirement by virtue of the dichotomy, such is taught by Mui [0005] wherein it is stated that "Unfortunately, there are no income statements or balance sheets for workforce competencies or performance. In the past, there has not been an efficient way to count or increase an organization's inventory of competencies, find and fix an organization's competency gaps, or see how an organization's workforce performance is progressing towards overall business goals."

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Applicant states that "Miller does describe a competency model but does not teach or suggest 'progression requirements' for any type of job. (design competency model 324 is tied to designing of roles, jobs, etc. block 325 which outlines the competencies needed to support the organizational structure but does not teach or suggest any progression requirement." Examiner respectfully disagrees with Applicant's conclusion. Miller [0001] describes "progression through the levels of the Capability Maturity Model", progression with respect to a project in [0103] and [0251] and in [0141] measuring progress against the project plan and, significantly, in [0096] "designing career progression" wherein the term 'progression' clearly and obviously suggests an appropriate metric by which to measure such progression. As shown in the Official Notices, such progression requirements are old and well known as shown in Travis [0009] and [0102] and in many other passages.

Finally, as noted below in the Official Notices and admitted prior art, the delineation of competencies and so forth into two broad categories are old and well known as shown in Travis [Figure 11] wherein "shared competencies" and "job specific skills" are clearly delineated in their performance management schema. See also Mills [p.13] wherein "core competence" is consonant with the definition in the instant application along with "supportive competences" that correspond to dimension skills. Other examples therein abound and, at a minimum, such categorizations as described in the application would have been an obvious variation to one of ordinary skill in the art of what is already taught as these examples demonstrate.

10. Regarding claims 1, 8 and 14, Applicant has failed to rebut Examiner's **Official Notice** that

- it was old and well-known as well as common place business management arts to determine competency levels in groups, categories and classes of skills and competencies, and
- it was old and well-known as well as common place business management arts that all classes of skill or competence are amenable to improvement.

Examiner notes the following discussion of Official Notice taken from the MPEP:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common

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knowledge or well-known in the art. See 37 CFR 1.111(b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ at 241 ("[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention."). A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice would be inadequate. If applicant adequately traverses the examiner's assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 ("[T]he Board [or examiner] must point to some concrete evidence in the record in support of these findings" to satisfy the substantial evidence test). If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2). If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate. (MPEP § 2144.03(C))

Applicant has not "specifically point[ed] out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art." For these reasons, the statements that

- it was old and well-known as well as common place business management arts to determine competency levels in groups, categories and classes of skills and competencies, and
- it was old and well-known as well as common place business management arts that all classes of skill or competence are amenable to improvement.

are taken to be admitted prior art.

#### ***Claim Rejections - 35 USC § 112***

11. The following is a quotation of the second paragraph of 35 U.S.C. §112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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12. Claims 1–20 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claims 1, 8 and 14 recite the limitation *"assigning one or more values to the retrieved core skills and to the subset of dimension skills"* does not make sense and therefore is confusing. Does the Applicant mean assigning values to the data structures associated with the core and dimension skills wherein these skills are field labels? Also, assigning implies a storing of information 'in' a data structure. Applicant's use of the term 'to' as in "to the retrieved core skills" make this more confusing. Applicant needs to clarify what is meant by this limitation. Since these are independent claims, the entire set of claims is similarly vague and indefinite.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 1, 5, 6, 8, 12–14, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mui (US PGPub 20030229529 A1) in view of Miller (US PGPub 20030110067 A1) and further in view of Magrino (US PGPub US 20020198765 A1).

**Claims 1, 8 and 14:**

Although claims 1, 8 and 14 are worded and/or structured slightly differently, they have the same scope and so are addressed together. Mui, as shown, describes and/or discloses the following limitations.



- *retrieving one or more core skills from a data store, wherein each user is associated with one or more of the core skills* (Mui, in at least [0972] states: "Information Distributor [ ] can locate and deliver a wide variety of resources [and] supports a wide variety of descriptive information required by business applications, from standard web metadata to catalog information to skills and competencies." (emphasis added) where 'information' that is 'deliver[ed]' must, *ipso facto* be *retriev[ed]* and where 'catalog...' corresponds to *core skills*. Note that this also that this pertains to records of *each of a* as described in the abstract: "The method comprises establishing competency records, person records, and building desired goal profile records. Competencies identified in person records are compared to required competencies identified in goal profile records to identify best fit persons to utilize in achieving a goal."), and *wherein each of the core skills is a generalized skill useful in supporting an organization's business objectives* (Mui in at least [1245] states: "The person data record may contain the person's name, job title, competencies and associated competency levels held, identified or assigned goals, and other general human resources related information." (emphasis added) and in [1247] describes and/or discloses the meaning of 'competency' to wit: "A Competency is the skill, knowledge, or behavior being measured, calculated, acquired, specified, or tested. [...] Example Competencies include: Java Programming, Written Communications, Product Knowledge, Quality Attitude, and People Skills. Users of the Performance Application can create a plurality of Competency data records representing Competencies which may be stored in a Competency database. The Competency data record may comprise the name of the Competency, a description of the Competency, and the requirements for holding different levels of the Competency. The Performance Application utilizes created Competency records in establishing Competencies held by individuals and Competencies required to achieve goals." (emphasis added) where the emphasized text includes examples of a *generalized skill*... that are

'required to achieve goals' which corresponds to *an organization's business objectives*);

- *identifying a progression requirement stored in a memory for each of the core skills and for the subset of dimension skills; including the retrieved core skills, the subset of dimension skills, and the identified progression requirements in a profession-specific framework module* (Mui, in at least [1285] states: "The Performance Application may utilize goal records to monitor progress on the goal, assign goals to person, and identify Competencies associated with the goal. Each goal record may be associated with a subgoal profile record or parent goal record, and each subgoal or parent record may have additional levels of subgoals or parents, with each subgoal record or parent goal record identifying competencies and associated competency levels helpful in achieving the desired subgoal or parent goal." (emphasis added). See Mui [0173]-[0201] for 'profession-specific' modules that teach progression achievements. See also Mui [0209] wherein team managers work with "Profile Metadata" to "track progress towards goals" wherein the metadata and/or profile record corresponds to a module. Examiner takes **Official Notice** that it is old and well-known as well as common place in the human capital management arts to establish progression requirements with respect to a plurality of skills and competencies as shown in Travis in at least [0009] and [0102].) *wherein the including further comprises:*
- *creating the profession-specific framework module corresponding to one or more of the users* (Mui [0173]-[0201], *iter alia* teach various 'manager' (modules) to evaluate various competencies that pertain to specific types of tasks or professional profiles such as sales and marketing, accounting and the like. Mui [0213] teaches "competency gap analysis" and in [0212] reveals "multiple, complementary mechanisms for identifying interventions.", where in [0214] the analysis entertains "certification requirements associated to the actual learning profile of the individual in

the role" where the 'actual...' corresponds to *the profession-specific framework module*);

- *assigning one or more values to the retrieved core skills and to the subset of dimension skills* (Mui [0172] "...Assign competencies to roles, entities..." See also [1216] and [0421] which describes assigning values to certain object fields. In [1306] reference is made to goals which are assigned. In [236] values are assigned to metadata where as noted above the metadata is associated with competencies.);
- *storing the assigned values in the framework module* (Mui [0280] states: "These stored procedures provide the actual intelligence of taking the marshaled arguments that come in, and storing them in specific fields in the database, and vice versa. Thus a combination of the meta-data store and the stored procedures create an abstraction layer that allows the base SabaObject to store all objects through a simple, uniform algorithm." (emphasis added) where 'all objects' encompasses the data structures relating to the assigned values in the framework module.);
- *storing the profession-specific framework module* (Mui in at least [0044] uses the term 'framework' to describe the entire system; see also Mui's use of the term 'platform' at [0003].) *in one of the nonvolatile storage devices* (Mui in at least [0281] for 'storage') *at a location accessible by an evaluation software routine included in the workforce evaluation tool* (Mui in at least [1258] refers to 'the Competency Proficiency algorithm' that performs "evaluations" and wherein the algorithm is stored along with other data structures and programs as in, e.g., [0077] and [0257] and many other references.);
- *evaluating one of the plurality of users using the framework and the evaluation software routine, the evaluating resulting in an evaluated user* (Mui, in at least claim 11 states: "[...] held competency level by a person is determined from evaluations such as personal assessments, test, and courses." (emphasis added) where the

emphasized text collectively constitutes a framework or structure for assessing a user.)

- *computing a core skill ranking for each of the core skills by comparing the values assigned to the core skills to the values assigned to other employees stored in the profession-specific framework module and computing a dimension skill ranking for each of the subset of dimension skills by comparing the values assigned to the subset of dimension skills to the values assigned to other employees stored in the profession-specific framework module, wherein the core skill rankings and the dimension skill rankings are stored in a memory* (Mui, in at least [1357] states: "The Rating Providers submit their feedback in the form of ratings and comments on various aspects of the individual performance: Goal Assignments, Job and Goal Competencies, and any other competencies judged pertinent for the review." (emphasis added) where the emphasized text corresponds to the limitation. Mui [1251] further states "The value property of the competency level implies an inherent ordinality to the competency levels belonging to a particular competency, allowing them to be ranked in relative importance to each other, for example." (emphasis added) and in Mui [abstract] states "Competencies identified in person records are compared to required competencies identified in goal profile records to identify best fit persons to utilize in achieving a goal." (emphasis added) where the ranking is based on a comparison. Mui does not specifically teach that such comparisons and resultant rankings are done within specified groups of competencies as in core skills and dimension skills, *per se*, but Examiner takes **Official Notice** that it is old and well-known as well as common place in the human resource management arts to make comparisons and rankings within specified groups and categories of entities and personnel. Indeed, Mui [1014] provides an example: "IDK provides a flexible mechanism for comparing these attribute/value pairs and taking action upon the comparison results." See also [1021] therein and in [1011] states "The actual data

being compared may vary widely among applications, ranging from competencies and skills for gap analysis to document summaries and reviews for web content. Yet the actual operations involved in determining a match tend towards a small set, text and numeric comparisons and basic Boolean logic. Thus, the IDK needs to cast a broad variety of properties into a consistent format for purposes of comparison." Indeed, this step of ranking by comparing is implicit in actions that assign a metric to an entity as shown in [1291-3] with respect to goals. See also [1299-1301] wherein goals are measured in association to "the set of categories".);

- *identifying a plurality of user improvement areas based on the core skill rankings and the dimension skill rankings, wherein at least one of the user improvement areas corresponds to one of the core skills, wherein at least one of the user improvement areas corresponds to one of the dimension skills* (Mui [213]: "Competency gap analysis can be applied to either an individual's goals [ ] or roles [ ]. The analysis compares the required competencies for reaching a goal [ ] or filling a role [ ] (either held or targeted) to actual held competencies and generates a competency gap [ ]." (emphasis added) where the 'competency gap analysis' corresponds to *identifying a plurality of user improvement areas* and 'to actual ...' corresponds to *based on the core skill rankings and the dimension skill rankings*. Mui does not specifically state that *at least one of the user improvement areas* must be from a specified category such as core or dimension skills, but Examiner takes **Official Notice** that it is old and well-known as well as common place business management arts that all classes of skill or competence are amenable to improvement. See also Mui [1267] regarding "A Criticality Level".),
- *wherein the identified user improvement areas are selected in order to increase the overall ranking of the user* (Mui [0213]: "Competency gap analysis can be applied to either an individual's goals [ ] or roles [ ]. The analysis compares the required competencies for reaching a goal [ ] or filling a role [ ] (either held or targeted) to

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actual held competencies and generates a competency gap [ ]. Learning interventions [...] that fill the competency gap [ ] are the identified." (emphasis added) where the emphasized text corresponds to *the identified user improvement areas*. In [1251] "and the ability of a competency provider to address that gap." (emphasis added) where 'to address...' corresponds to *to increase the overall ranking of the user*).

Mui does not specifically refer to a *progression requirement* as disclosed in the specification, nor teaches that it is specifically associated with a particular profession. Miller, in an analogous art, does in at least [0001] wherein he states: "...a method for assisting and expediting an organization's progression through the levels of the Capability Maturity Model (CMM)." (emphasis added) where 'progression' and 'levels' corresponds to a *subset of dimension skills*... Also, in at least [0096] Miller states: "(3) designing career progression...to reward individuals for desired contributions." (emphasis added) where 'contributions' corresponds to those associated with a *subset of dimension skills* to which their competencies make 'contributions'. While Mui describes, as shown above, performance measures and performance profiles (see Mui [abstract] "goal profile records", and "User profiles may include skill competencies and gaps, roles and responsibilities, interests and career goals."), Mui does not specifically calculate rankings based on the two groupings, *i.e.*, *core skills* and *dimension skill*. But Examiner takes **Official Notice** that it is old and well-known as well as common place business management arts to determine competency levels in groups, categories and classes of skills and competencies. See for example Travis [Figure 11] wherein two categories: "shared competencies" and "job specific skills" are described. This delineation is further evidenced by the very notion of "competency profiles" as in Mui [1246], in Miller [0097] "[t]he organization may determine profiles for the ideal candidates..." (emphasis added), in Magrino [0009] "[...] the intrinsic and progressive variability of workforce skills will inevitably lead the ability to update the categorization capabilities of conventional HCM systems.", and in D'Elena [0034]: "Skills [ ] includes skills which may be segmented into two categories, core skills and functional skills. Core skills are profession specific

skills and functional skills define a job role in more detail." (emphasis added). Mui also does not specifically describe and/or disclose the following limitations, but Miller does as shown.

- *retrieving, from a data store, a subset of dimension skills from a plurality of dimension skills, wherein the subset of dimension skills correspond to a subset of the plurality of users* (Miller, in at least [0073] states: "Returning to FIG. 2G, the next task in the mini-assessment and appraisal is to assess the development of an onsite schedule, step 262. The core of the assessment during step 260 is made up of the onsite period, which usually lasts from five to ten days. The onsite period consists of three basic activities: (1) gathering information through interview sessions with project leaders, team leaders, and functional area representatives; (2) mapping information to processes areas within the scope of the assessment through consolidation sessions [...]" and in [0094] states: "The competency model definition will document the knowledge, skills and other attributes/abilities associated with high performance on a job. The roles, jobs, teams and organizational structures will document the responsibilities associated with: the individual (roles), groups of related roles (jobs), groups of jobs (teams) and the span of control, reporting relationships and functional relationships [...] In designing a competency model [...], the organization should group together related competencies to form a competency model. A competency is skills, and other attributes/abilities associated with high performance on a job; and a competency model is a group of related competencies required to perform a career field such as team leader or technical coach. Similarly, [...], the organization defines the roles played by individuals, the jobs they hold, the teams in which they work, and the relationship between teams. The organization should logically define roles for individuals on the basis of their competencies, [...]" (emphasis added) where 'group together...' and 'competency model is ...' corresponds to *a subset of dimension skills...Note that 'gathering information...' and 'mapping information' as disclosed corresponds to retrieving a subset...)* and wherein each of the dimension skills is a

*profession-related skill corresponding to a particular profession found in the organization* (Miller, in at least [0094] states: "...a competency model is a group of related competencies required to perform a career field such as team leader or technical coach." (emphasis added) where the emphasized text corresponds to examples of *skill corresponding to a particular profession found in the organization*);

Both Mui and Miller provide related systems and methods for establishing a framework and methodology for increasing and improving the effectiveness of a workforce by accurate assessments of a spectrum of skills and competencies. Both provide means to segregate differing areas of competence, creation of competency models and evaluating them in the context of an enterprise's mission so as to "implement systemic changes to achieve higher levels of [ ] maturity." (Miller [0013]) and thus "defines a means for assessing, rewarding, and developing the individuals [*sic*] in an organization." (emphasis added) (Miller [0096]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Mui and Miller and the technical ability existed to improve the system and methods in the same and/or obvious ways and the result of the improvement was predictable.

Neither Mui nor Miller specifically describe and/or disclose that the aforementioned progression requirements are identified in a *profession-specific* framework nor teaches the following limitations, but Magrino, in an analogous art, does as shown. Magrino, in at least [0058] states: "Professional Skills: category fields are provided to permit entry of specific work experience, knowledge and training, certifications, and degrees and other professional qualifications received. Categorized fields can be provided to permit entry of specific professional qualifications, which are prerequisites for specific, typically professional positions, or required for maintenance of a typically professional position, such as mandatory continuing education credits." (emphasis added). Miller describes and/or discloses the following elements of the aforementioned limitations. Miller, in at least [0211] states: "The organization performs step [ ] to identify the functional, technical, and performance requirements for the technology infrastructure that should support the solution [... and...] identifies key performance indicators, [...]" (emphasis



added) where 'professional skills: category...' corresponds to the *profession-specific [skills] framework* and 'functional' and 'performance requirements...' corresponds to the *business-specific framework*.)

- *retrieving a user capability from a capabilities data store, the user capability corresponding to the evaluated user* (Magrino, in at least [0084] states: "The underlying knowledge base for the engine [ ] is again preferably stored and retrieved from the key phrase database [ ], though in a form most appropriate for use by the engine [ ]" (emphasis added) where in [0034] the "work preferences, skills, accomplishments, and other work and life-style attributes of the individual, together reflecting the value of the individual as a member of the workforce, are collectively referred to as performance capabilities." (emphasis added) where 'retrieved from...' corresponds to *retrieving* and 'work preferences...' and 'individual' and 'capabilities' corresponds to *a user capability*. Note that in [0046] this pertains to a data set of one who is "evaluated");
- *matching the user capability with one of the progression requirements that are included in the framework* (Magrino, in at least [0082] refers to "matching against position specifications and cumulative scoring." where in [0078] the "performance capability skills held and any skill level rankings assessed by the candidate may be approved..." (emphasis added) where 'skill level' corresponds to *progression requirements*. See also [0010]: "The detailed skills of each workforce member is presumed to be fully and uniformly assessed on skills templates. [...] The HCM system [...] then operates to match skill templates against project templates subject to a project skills weighting profile.);
- *computing an overall ranking based upon the computed core skill ranking and the computed dimension skill ranking* (Magrino [0016] "This is achieved in the present invention by providing a system, executable by computer, for ranking the skills sets of a plurality of members of a workforce relative to a requirements set representative of

a position within an organization. The method includes selecting, from a workforce database, a member set of performance capability data sets matching a defined requirements set and scoring predetermined elements of the performance capability data sets of the member set based on element score values stored in the workforce database. [...] An ordered ranking of the plurality of members is then determined based on the accumulated scores of each of the performance capability data sets of the member set." (emphasis added)), *wherein the overall ranking is stored in the memory* (Magrino [abstract]: "[...] scoring predetermined elements of the performance capability data sets of the member set based on element score values stored in the workforce database." (emphasis added)); and

Mui/Miller describes and/or discloses methods for "enterprise workforce planning" and a type of "process improvement framework" wherein users or employees are given a roadmap to assist in organizational transformation. Mui describes ways to assess individuals and Miller provides the framework by which there are controlled improvements in organizational competence. Magrino also describes and/or discloses categories for measuring profession-specific skills and competencies and "for efficiently, accurately and comprehensively evaluating members of a workforce based on a skills requirements specification." (Magrino [0015]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the inventions of Mui/Miller and Magrino so that organizations can assess both professional skill levels and business-specific skill levels and thereby obtain a more detailed and hence useful skill-profile of their workforce so that a workforce is better trained and management is better informed as to how to best to utilize the competencies of the workforce. Moreover, the technical ability existed to combine the elements as claimed and the results of the combination were predictable.

#### **Claims 5, 12 and 18:**

Although claims 5, 12 and 18 are worded and/or structured slightly differently, they have the same scope and so are addressed together. Mui, Miller and Magrino describe and/or disclose

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the limitations of claims 1, 8 and 14 as shown above. Mui further describes and/or discloses the following limitations.

- *the subset of dimension skills constitutes a first dimension skills module, the method further comprising:*
  - *selecting one or more dimension skills from the plurality of dimension skills, the selecting resulting in a second dimension skills module* (Mui, in at least [1289] states: "A Goal Metric supports a finite number of measurement units or categories, and can optionally relate to a set of Competencies that might be needed to affect the metric in a meaningful way." (emphasis added) and in at least [1291] further describes various 'categories' of skills.); *and*
  - *replacing the first dimension skills module with the second dimension skills module in the framework* (Mui, in at least [1357] states: "The Rating Providers submit their feedback in the form of ratings and comments on various aspects of the individual performance: Goal Assignments, Job and Goal Competencies, and any other competencies judged pertinent for the review." (emphasis added) where 'rating providers submit' corresponds to *replacing the first dimension skills module* and 'various aspects...' corresponds the *first and second dimension skills module[s]*. Note that the effect of utilizing 'various aspects' is equivalent in its effect as *replacing* since it involves consideration of other 'aspects' *i.e., dimensions* of skill level assessments.).

**Claims 6, 13 and 19:**

Although claims 6, 13 and 19 are worded and/or structured slightly differently, they have the same scope and so are addressed together. Mui, Miller and Magrino describe and/or disclose the limitations of claims 1, 8 and 14 as shown above. Mui further describes and/or discloses the following limitations.

- *identifying one or more functional skills that correspond to the subset of dimension skills* (Mui, in at least [1232] states: "An organization's business goals [ ] may be

specific goals at any level: enterprise, business unit, function, project, or department level. By disaggregating the organizational goals into smaller segments [...] a user [...] can determine the required goals [ ] for each jobholder. These segmented goals drive job definitions and required competencies which the jobholder must possess for the organization to achieve these goals." (emphasis added) where the 'function' corresponds to a *functional skill* per the 'required competencies' and 'disaggregating ...' corresponds to the act of *identifying one or more functional skills*... since that process is used to define and hence identify.); and

- *including the identified functional skills in the framework* (Mui, in at least [1214] states: "The Performance module [...] defines the services available for managing human performance, including competencies, goals, and feedback services [...]" (emphasis added) where the 'defined' set of competencies is 'included' in the 'performance module' hence *the identified functional skills [are included] in the framework*.).

### **Conclusion**

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Mark A. Fleischer** whose telephone number is **571.270.3925**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Bradley Bayat** whose telephone number is **571.272.6704** may be contacted.

The prior art made of record and not relied upon that is considered pertinent to applicant's disclosure are:

- Travis, et al. (US PgPub 20040088177 A1) teaches an employee performance and management method and system.
- Mills, et al. (*Strategy and Performance: Competing Through Competences*) also teaches methods pertaining to employee performance measurement and management.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

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